(NOTE: Identify Changes with Asterisks (\*))

Sheet 1

# United States District Court

Northern	District of	of	New York	
UNITED STATES OF AMERICA		AMENDED JUD	GMENT IN A CRIMIN	AL CASE
<b>V.</b>				
		Case Number:	DNYN505CR000204-	-007
Spencer Fleming		USM Number:	13324-052	
Date of Original Judgment: August 23,	2007	New York 13202	, 447 East Washington Str (315) 478-3186	reet, Syracuse,
(Or Date of Last Amended Judgment)		Defendant's Attorney		
Reason for Amendment:  ☐ Correction of Sentence on Remand (18 U.S.C. 3742(f)) ☐ Reduction of Sentence for Changed Circumstances (Fe P. 35(b)) ☐ Correction of Sentence by Sentencing Court (Fed. R. C	ed. R. Crim. Crim. P. 35(a))	<ul> <li>Modification of Supervision Conditions (18 U.S.C. §§ 3563(c) or 3583(e))</li> <li>Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))</li> <li>Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))</li> </ul>		
22 Conceilon of Schichee for Cherical Mistake (Fed. R. C	iiii. 1 . 30)	☐ Direct Motion to Dis ☐ 18 U.S.C. § 355	strict Court Pursuant 28 U.S.C	. § 2255 or
			titution Order (18 U.S.C. § 3664)	
THE DEFENDANT: X pleaded guilty to count(s) 1 of the Indictr	ment on March 20, 2007.			
pleaded nolo contendere to count(s)				
which was accepted by the court.				
was found guilty on count(s) after a plea of not guilty.				
The defendant is adjudicated guilty of these offer	enses:			
	<mark>se</mark> stribute and Possess with ne and Cocaine Base (crac		Offense Ended 4/04	Count 1
The defendant is sentenced as provided with 18 U.S.C. § 3553 and the Sentencing Guid  The defendant has been found not guilty on	elines. count(s)		gment. The sentence is impo	sed in accordance
X Count(s) 2	X is are dismis	ssed on the motion of	f the United States.	
It is ordered that the defendant must not or mailing address until all fines, restitution, cost the defendant must notify the court and United St.	s, and special assessments	imposed by this judg	ment are fully paid. If ordere	of name, residence, ed to pay restitution,
		August 23, 2007		
		Date of Imposition of	of Judgment	
		Frederick J. & Senior United	Cullin, Jr. I States District Court J	 udge

October 31, 2007

ВВ

Case 5:05-cr-00204-FJS Document 135 Filed 10/31/07 Page 2 of 6 AO 245C NNY(Rev. 10/05) Amended Judgment in a Criminal Case Sheet 2 — Imprisonment (NOTE: Identify Changes with Asterisks (\*)) Judgment — Page \_\_\_\_ of DEFENDANT: Spencer Fleming CASE NUMBER: DNYN505CR000204-007 **IMPRISONMENT** The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: \* 46 months with credit for the period of custody from March 9, 2004 through August 22, 2007. The court makes the following recommendations to the Bureau of Prisons: The Court recommends that this sentence run concurrently with the state sentence the defendant is now serving in Onondaga County Court Indictment number 2004-0425-1. The defendant is remanded to the custody of the United States Marshal. The defendant shall surrender to the United States Marshal for this district: as notified by the United States Marshal. The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons: before 2 p.m. on as notified by the United States Marshal. as notified by the Probation or Pretrial Services Office. **RETURN** I have executed this judgment as follows: Defendant delivered on

, with a certified copy of this judgment.

UNITED STATES MARSHAL

DEPUTY UNITED STATES MARSHAL

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AO 245C NNY(Rev. 10/05) Amended Judgment in a Criminal Case

Sheet 3 — Supervised Release (NOTE: Identify Changes with Asterisks (\*))

DEFENDANT: Spencer Fleming

CASE NUMBER: DNYN505CR000204-007

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of:

4 years.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- X The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.
- X The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Deselect, if inapplicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

#### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement; and
- 14) the defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

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of

Judgment—Page \_\_\_

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AO 245C NNY(Rev. 10/05) Amended Judgment in a Criminal Case

Sheet 3C — Supervised Release

(NOTE: Identify Changes with Asterisks (\*))

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DEFENDANT: Spencer Fleming

CASE NUMBER: DNYN505CR000204-007

#### SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall participate in a program for substance abuse which shall include testing for drug and/or alcohol use and may include inpatient and/or outpatient treatment. The program shall be approved by the United States Probation Office. The defendant shall contribute to the cost of any evaluation, testing, treatment and/or monitoring services rendered in an amount to be determined by the probation officer based on the defendant's ability to pay and the availability of third party payments.

#### DEFENDANT'S ACKNOWLEDGMENTOF APPLICABLE CONDITIONS OF SUPERVISION

Upon a finding of a violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

The conditions of supervision have been read to me. I fully understand the conditions and have been provided a copy of them.

Defendant	Date	
U.S. Probation Officer/Designated Witness	Date	

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AO 245C NNY(Rev. 10/05) Amended Judgment in a Criminal Case

Sheet 5 — Criminal Monetary Penalties

**TOTALS** 

(NOTE: Identify Changes with Asterisks (\*))

Judgment — Page 5 of **DEFENDANT:** Spencer Fleming DNYN505CR000204-007 CASE NUMBER: CRIMINAL MONETARY PENALTIES The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6. Assessment Restitution <u>Fine</u> \$ Waived \$ N/A **TOTALS** 100 ☐ The determination of restitution is deferred until . An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination. ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below. If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid. **Restitution Ordered Total Loss\* Priority or Percentage** Name of Payee

Restitution amount ordered pursuant to plea agreement \$
The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
The court determined that the defendant does not have the ability to pay interest and it is ordered that:
☐ the interest requirement is waived for the ☐ fine ☐ restitution.
☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\$

<sup>\*</sup> Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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AO 245C NNY(Rev. 10/05) Amended Judgment in a Criminal Case

Sheet 6 — Schedule of Payments

(NOTE: Identify Changes with Asterisks (\*))

		Judgment — Page	6	of	6
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DEFENDANT: Spencer Fleming

CASE NUMBER: DNYN505CR000204-007

## SCHEDULE OF PAYMENTS

Hav	ing a	ssessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:
A	X	In full immediately; or
В		Lump sum payment of \$ due immediately, balance due
		□ not later than, or □ in accordance with □ D, □ E, □ F, or □ G below; or
C		Payment to begin immediately (may be combined with D, E, or G below); or
D		Payment in equal (e.g., weekly, monthly, quarterly) installments of \$ over a period of (e.g., months or years), to commence (e.g., 30 or 60 days) after the date of this judgment; or
E		Payment in equal (e.g., weekly, monthly, quarterly) installments of \$ over a period of (e.g., months or years), to commence (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
F		Payment during the term of supervised release will commence within (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
G		Special instructions regarding the payment of criminal monetary penalties:
Stre can: vict	eet, S not be im is	ment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial bility Program, are made to Lawrence K. Baerman, Clerk, U.S. District Court, Federal Bldg., P.O. Box 7367, 100 S. Clinton yracuse, N.Y. 13261-7367, unless otherwise directed by the court, the probation officer, or the United States attorney. If a victim e located, the restitution paid to the Clerk of the Court for that victim shall be sent to the Treasury, to be retrieved if and when the located.
		ndant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.
	Join	Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount and corresponding payee, if appropriate.
		The Court gives notice that this case involves other defendants who may be held jointly and severally liable for payment of all or par of the restitution ordered herein and may order such payment in the future.
	The	defendant shall pay the cost of prosecution.
	The	defendant shall pay the following court cost(s):
	The	defendant shall forfeit the defendant's interest in the following property to the United States:
Pay inte	ment	s shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal,(5) fine (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.